

**Introduction (L.N. 99 of 1994)**

**VALUE ADDED TAX ACT, 1994  
(ACT NO. XII OF 1994)**

**Value Added Tax (Retailers' Schemes) Regulations, 1994**

IN exercise of the powers conferred by sections 46 and 61 of the Value Added Tax Act, 1994, hereinafter referred to as "the Act", the Minister of Finance has made the following regulations:-

1. Citation and Commencement.

- (1) These regulations may be cited as the Value Added Tax (Retailers' Schemes) Regulations, 1994.
- (2) These regulations shall be deemed to have come into force on the 1st September, 1994.

2. Interpretation.

- (1) In these regulations, unless the context otherwise requires -

"scheme" means any scheme to which regulation 3 of these regulations applies.

- (2) Other terms shall have the meaning assigned to them in the Act.

3. Retailers' Scheme.

This regulation applies to:

- (a) a cash basis scheme;
- (b) an invoice basis scheme;
- (c) an authorized scheme.

4. Cash Basis Scheme.

- (1) Subject to the other provisions of this regulation, supplies made by and to a retailer who adopts a cash basis scheme shall be treated as made at the time when the payment for the supplies is made to or by that retailer, as the case may be, and the taxable value of supplies made during a tax period by and to such a retailer shall be equivalent to the payments received by and paid to, respectively, that retailer during that tax period for taxable supplies made by and to him.
- (2) The provisions of items 5 and 6 of the Fourth Schedule to the Act shall apply for the purpose of determining the taxable value of supplies referred to in paragraph (1) of this regulation provided that the reference contained in the said items to "consideration for a taxable supply" shall be

construed as a reference to the payment received or made, as the case may be, for a taxable supply.

- (3) Where a retailer makes a transaction for which no consideration is paid or payable, and where that transaction is deemed to be a taxable supply made by that retailer in virtue of regulations made for the purposes of subsection (2) of section 7 of the Act, the taxable value of the said supplies shall be determined in accordance with items 7 and 8 of the Fourth Schedule to the Act.
- (4) The input tax and the credit for input tax of a retailer who adopts a cash basis scheme shall be determined in accordance with the provisions of sections 24 and 25 of the Act and of regulations prescribe in virtue of sub section (3) of the section 25 of the Act, provided that and reference in the said sections and regulations to tax chargeable or supplies made to a registered person shall be construed as a reference to tax paid on such supplies.

#### 5. Invoice Basis Scheme.

The time of supplies and the taxable value of supplies made by and to a retailer who adopts an invoice basis scheme, and the input tax and the credit for input tax allowable to that retailer shall be determined in accordance with the provisions of the Act and of regulations made under the Act without reference to these regulations.

#### 6. Authorized Scheme.

- (1) The Commissioner may authorize a retailer to adopt such other scheme for the determination of the time of supplies and of the taxable value of supplies made by and to him as he may deem appropriate.
- (2) Any scheme authorized in virtue of paragraph (1) of this regulation shall be specified by means of a notice given by the Commissioner to the said retailer, or published by means of a notice in the Gazette in which case the authorization shall be deemed as having been given to all retailers falling within the category to which the said notice is made applicable.
- (3) An authorized scheme may be amended or revoked or substituted by means of a subsequent notice.

#### 7. Adoption of Retailers' Schemes.

- (1) Every retailer shall adopt one of the schemes referred to in regulations 4 and 5 of these regulations or, where any scheme has been authorized under regulation 6 of these regulations, such authorized scheme, and shall indicate the scheme adopted by means of a declaration attached to or included in the return furnished by him for every tax period for which he adopts that scheme.

- (2) The declaration referred to in paragraph (1) of this regulation shall indicate clearly the scheme used and shall be made in such form as the Commissioner may direct.

#### 8. Refusal to allow the adoption of a scheme.

- (1) The Commissioner may refuse to allow a retailer to adopt a cash basis scheme or a scheme authorized by a notice in the Gazette if he is of the opinion that that scheme is likely to significantly distort the taxable value of the taxable supplies made by that retailer or his input tax and that the said retailer can reasonably be expected to adopt an invoice basis scheme or another authorized scheme.
- (2) The Commissioner shall cause a refusal referred to in paragraph (1) of this regulation to be notified to the retailer and shall by means of the said notice require the retailer to adopt, unless and until he is authorized to adopt an authorized scheme other than that to which the refusal refers, an invoice basis scheme.
- (3) A refusal shall be effective with effect from the tax period during which it is notified or from such later date as may be specified in the notice referred to in paragraph (2) of this regulation until such time as may be specified in the said notice.

#### 9. Discontinuance of Scheme.

- (1) Subject to the other provisions of this regulation, a scheme may be discontinued by the adoption of another scheme made in accordance with regulation 7 of these regulations.
- (2) Except with the approval of the Commissioner a retailer may not discontinue a scheme unless he has adopted that scheme for at least four consecutive tax periods and unless a notice of the intention to discontinue the scheme is given to the Commissioner by not later than the date on which the last return in which the scheme is adopted is furnished to the Commissioner.
- (3) Paragraph (2) of this regulation shall not apply where a retailer wishes to discontinue an authorized scheme which has been amended, revoked or substituted.
- (4) On the discontinuance of a scheme the Commissioner may require the retailer to pay tax in such amount as the Commissioner may deem fair and reasonable to compensate for the tax on supplies which, because of the discontinuance of the scheme, might otherwise remain unaccounted for.

10. Other Conditions to be observed in the Adoption of a Scheme.

Except with the approval in writing of the Commissioner or in accordance with the terms of a scheme, a retailer may not:

- (a) adopt a scheme for only a part of a tax period;
- (b) adopt a scheme in respect of only part of the taxable supplies made in a tax period;
- (c) adopt more than one scheme in respect of the same period.

"scheme" means any scheme to which regulation 3 of these regulations applies.